

**Advice on the Draft Response to the UN Rapporteur on Adequate Housing, which has been submitted for approval by Andrew Stunell MP, Under Secretary of State, Communities and Local Government**

Before addressing the substance of the Response, it is suggested that the terms Traveller and Gypsy be used throughout. The use of the lower case would indicate – no doubt quite unintentionally - that these communities are not respected by central government.

Although Green Belt land was indeed supposed to remain undeveloped as stated in para 1.2, this principle has not been observed without exception, particularly where the land had already been used unofficially for an unsuitable purpose. The Dale Farm site was a scrapyard before it was purchased by Travellers more than ten years ago.

Both the authorised and unauthorised developments at Dale Farm are on Green Belt land, so there was no absolute bar on the use of the land for residential purposes in the planning system, as the invocation of Green Belt ‘principles’ is often meant to imply. The evictions will leave a patchwork quilt, with the vacant spaces having none of the amenity value of pure open space. The Leader of the Council Tony Ball, says “the encampment might well become allotments”, and when asked where the residents are to go after they are evicted, he replies

“they came from somewhere. One has to draw the line at some point. All our authorised sites are full up.”<sup>1</sup>

As stated in para 1.4, Some of the residents on the Dale Farm land occupy their homes in breach of planning control, but the Basildon District Council has not offered them any alternative sites, and legally they are homeless (Housing Act 1996 S 175). In England as a whole 20% of Gypsies and Travellers are in this position, while in the county of Essex, of which Basildon is a part, the proportion is 47.4%<sup>2</sup>. It should be noted that some neighbouring authorities in the county have made negligible contributions towards providing Gypsy sites, and this was to be remedied in the allocations determined by the Regional Spatial Strategies (RSS), Gypsy and Traveller Accommodation Needs Assessments (GTANA) and the following public inquiries, which have been scrapped by Secretary of State Eric Pickles.

A number of court decisions on homelessness of Dale Farm residents are either approaching the appeal stage or have already reached appeal and are awaiting a hearing. Lawyers representing the residents are making important submissions on the suitability of bricks and mortar accommodation being offered by the Council, to which Travellers are strongly averse, as is acknowledged in Para 7.5. The Council has offered no alternative site provision and has failed to engage with proposals made on behalf of the residents for alternative sites. Depending on the outcome, there is a likelihood of appeal to the Court of Appeal. It is unreasonable not to allow residents concerned in these legal proceedings to remain until the cases have been settled by the

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<sup>1</sup> Travellers' travails, The Economist, August 12, 2010. [www.economist.com/node/16793224/print](http://www.economist.com/node/16793224/print)

<sup>2</sup> Caravan Count, January 2010, [www.communities.gov.uk/publications/corporate/statistics/caravancountjan2010](http://www.communities.gov.uk/publications/corporate/statistics/caravancountjan2010)

courts, and until, in accordance with arguments of proportionality, more constructive alternatives have been explored to eviction.

Para 1.5 ignores the endemic shortage of sites for Gypsies and Travellers in England, which has persisted since the tightening up of restrictions on the use of land and the reluctance of local authorities to grant planning permission for the use of land as a Gypsy site after the second world war. The Caravan Sites Act 1968 sought to make local authorities responsible for the provision of sites for Gypsies, and had started to make an impact when its enforcement powers were used in the late 1980s and early 1990s, only to be repealed by the Criminal Justice and Public Order Act 1994 S 80.

Reference is made in para 4.3 to talks between Essex authorities including Basildon and the Local Government Association, Homes and Communities Agency and Government Office East to find alternative sites within the county to which Dale Farm Travellers facing eviction could relocate. These talks have been stalled by the announcement by Eric Pickles Secretary of State CLG abolishing the targets for site provision set through the RSS and GTANA<sup>3</sup>, and thereby encouraging all local authorities, not just in Essex, to conclude that they have no obligation to identify suitable land for site development, or to identify sites which could be offered to homeless Travellers such as those from Dale Farm. If the dialogue is to continue, then given the new policy terrain it is necessary for it to be given official sanction by Ministers, with enough time allowed for the authorities involved to reach agreements on numbers

Nowhere in the response is it mentioned that the Secretary of State has revoked RSS and pitch targets (see above), without providing any alternative means for local authorities to decide whether, and if so how much, land to allocate for Gypsy sites in their future plans. Some of this may be clarified in the forthcoming Localism and Decentralism Bill, new guidance and two inquiries by the CLG Select Committee into Localism and abolition of RSSs.

In the meanwhile, CALA Homes has asked the High Court for a judicial review of the Government's decision to abolish the RSSs, claiming that because the decision required primary legislation and there were no transitional arrangements, it was therefore unlawful. Graham Cunningham, the managing director of CALA Homes (South), said the decision had created a "policy vacuum."<sup>4</sup> The Coalition Government has also abolished the £32 million site refurbishment budget for 2010-11, although Eric Pickles plans to offer local areas financial incentives to create new sites<sup>5</sup>. If the new money is to be made available for Dale Farm residents, it would make sense to leave them where they are until the detail of new policy has been finalised. This would also save the £3 million plus cost of the evictions to be incurred by Basildon Council on police and bailiffs<sup>6</sup>, plus additional amounts which have not been even

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<sup>3</sup> Letter from Eric Pickles to George Osborne, June 25, 2010,

<sup>4</sup> David Marsden, *Housebuilder launches legal challenge to Government's abolition of the Regional Strategies*, Matthew Arnold and Baldwin LLP, August 10, 2010, [www.mablaw.com/2010/08/cala-legal-challenge-regional-strategies-planning-new-homes-bonus-scheme](http://www.mablaw.com/2010/08/cala-legal-challenge-regional-strategies-planning-new-homes-bonus-scheme)

<sup>5</sup> The Economist, op cit

<sup>6</sup> NewsQuest Media Group, May 4, 2010, [www.echo-news.co.uk/news/8133823.print](http://www.echo-news.co.uk/news/8133823.print)

roughly assessed for dealing with the social and medical problems of families on the roadside without access to washing or laundry facilities.

It should also be noted that a large number of those facing eviction have acute medical needs and that a number of children now attending the local primary school will lose their places if they are forced to live on the side of the road and subjected to a cycle of eviction. Many local authorities have decided not to retain separate Traveller Education Services now that the money is no longer ring-fenced, and Traveller Education services are finding it increasingly difficult to support Traveller children on unauthorised encampments, let alone in the schools, where they are the most disadvantaged of any ethnic minority. The official data from the School Census published by the Department for Education reveals an alarming situation for Gypsy, Roma and Traveller pupils in terms of attendance, exclusions and attainment (see attached graphs). Their educational profile is in marked contrast to all other minority ethnic communities in the UK and the situation is not improving. The national network of Traveller Education Support Services (TESS) was established in the early 1980s and more uniformly following the 1988 Education Act (s.210) with the introduction of the New Specific Grant for Traveller education (1990). Although there has been no statutory duty on local authorities to provide a specialist education service for Gypsy, Roma and Traveller children, this ring-fenced grant was very effective until its demise with the termination of the Vulnerable Children's Grant in 2007. Since that time, competing claims on local authority education budgets, combined with endemic prejudice towards Gypsy, Roma and Traveller communities, has resulted in the continuing erosion of funding to the TESS and further service cuts are now being seen and anticipated with the major retrenchments to local authority budgets, of the order of 30% over the next three years. Without question, the most vulnerable children in these communities will be the increasing numbers forced to live on unauthorised sites where there will be little if any contact with schools and educational welfare services. This abuse of the children's human rights means that the UK will be in breach of the UN Rights of the Child, yet there are no plans within the Department for Education (DfE) to address these specific needs of the GRT communities. This is a matter which the Special Rapporteur may wish to call to the attention of the Committee on the Rights of the Child.

A further omission from the draft is that in future, Travellers evicted from Dale Farm, as well as the victims of similar operations elsewhere, are likely to fall foul of the Coalition Government's decision to criminalise trespass and to make it harder for Gypsies to get planning permission on their own land.<sup>7</sup>

Para 1.19 notes Mr Justice Collins' concerns about the use of the bailiffs Constant and Co to undertake this eviction. This firm, which has been criticised for breaches of health and safety regulations (for example in relation to evictions conducted at Hovefields Drive, Wickford, on June 29, 2010),<sup>8</sup> has nevertheless been awarded the contract by Basildon Council for the proposed eviction.

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<sup>7</sup> New wave of evictions threatens Gypsies, The Observer, August 1, 2010, [www.guardian.co.uk/society/2010/aug/01/gypsies-evictions-planning](http://www.guardian.co.uk/society/2010/aug/01/gypsies-evictions-planning)

<sup>8</sup> [euyouthspeak.org/roma/?p=13925](http://euyouthspeak.org/roma/?p=13925)

Reference is made to an Annex B which contains an eviction plan by this firm. The Health and Safety Executive and the Director of Children's Services are not mentioned as being party to any talks on this plan (para 4.2), but the Special Rapporteur should be informed as to whether their approval has been sought or given. This raises again the issue of proportionality which, despite the Court of Appeal decision in the Council's favour, left the Council in the position of having to make a number of decisions as to how, when, and against whom to proceed with enforcement.

The Special Rapporteur may also wish to note that in 2010 the European Commission against Racism and Intolerance in its fourth periodic report on the UK expressed concern about the eviction of Gypsies and Travellers. The report found (para 153) that

“An excessive emphasis on enforcement (ie eviction), involving often protracted and expensive litigation, instead of seeking forward-looking solutions in consultation with all members of the local community, has also been shown to damage race relations”.

The mission recommended in its report of March 2010 (para 156), that

“..the UK.. encourage local authorities to treat enforcement measures... as a last resort, and to privilege wherever possible...mutually acceptable solutions”<sup>9</sup>.

The evictions at Dale Farm, and the strongly anti-Traveller policies adopted by the Coalition Government, come at a time when other major European countries are planning mass expulsions of Roma or demolitions of Roma settlements. Rights groups warn that these measures entail the criminalisation of an entire ethnic group, and break EU law<sup>10</sup>. Unfortunately, European states have forgotten that criminalisation of Jews and Gypsies was the precursor to their dehumanisation and genocide by the Nazis, but this time the tide of racism may not stop at the white cliffs of Dover.

*Yours sincerely*  
*Eric Archery*

August 20, 2010

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<sup>9</sup> [www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United\\_Kingdom/GBR-CbC-IV-2010-004-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-IV-2010-004-ENG.pdf)

<sup>10</sup> Claudia Ciobanu, Citizen Rights Don't Apply to Roma, Interpress Service, [www.ipsnews.net/news.asp?idnews=52415](http://www.ipsnews.net/news.asp?idnews=52415)